



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,154	08/31/2000	Hirohide Sugahara	4443	4648

758 7590 12/01/2003

FENWICK & WEST LLP  
SILICON VALLEY CENTER  
801 CALIFORNIA STREET  
MOUNTAIN VIEW, CA 94041

EXAMINER
----------

CHANG, JUNGWON

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 12/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/653,154

Applicant(s)

SUGAHARA ET AL.

Examiner

Jungwon Chang

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-15 are presented for examination.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3, 4, 8, 9, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The claim language in the following claims is not clearly understood:
  - i. as to claim 3, it is unclear what the abbreviation of "CE, SE, CC" stand for (i.e., collect epoch, service epoch, counter?).
  - ii. as to claims 4, 8, 9, 13 and 14, they are the same deficiency as claim 3 above.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2154

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 5, 6, 7, 10, 11, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al. (US 6,108,739), hereinafter James.

6. As to claims 5 and 10, James discloses the invention substantially as claimed, including a method carried out at an initiator node for avoiding starvation at said initiator node (system B, fig. 1) in a computer network to which are connected at least one target node (system C, fig. 1) which provides service and a plurality of initiator nodes which request service from said target node (col. 3, line 57 – col. 4, line 6), said method comprising the operations of:

- (a) sending a first request to said target node (col. 9, lines 12-14); and
- (b) when a reject reply is received in response to said first request (col. 9, lines 14-18), sending a retry request (col. 9, lines 18-20; col. 8, lines 58-61).

7. James does not specifically disclose parameter whose value is equal to the value of a parameter of reject time information attached to said reject reply. However, James discloses a timestamp field in data packet used to transmit request and response (fig. 2, col. 7, lines 32-36 and 50-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include reject time information because doing so would allow the user or system administrator to aware of the time when the server is unable to provide service.

8. As to claims 1, 2, 6 and 7, they are rejected for the same reasons set forth in claims 5 and 10 above. In addition, James discloses when a request is received from said initiator node during a period that said target node is unable to provide service (col. 3, lines 63-67; col. 9, lines 14-18); when said target node is in a state capable of providing service, preferentially accepting a retry request carrying older reject time information (col. 9, lines 18-20; col. 8, lines 58-61).

James does not specifically disclose older rejection time or new reject time information. However, James discloses a timestamp in data packet used to transmit request and response (fig. 2, col. 7, lines 32-36 and 50-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include older rejection time because timestamp in the packet header periodically stores the time information, such as receiving or transmitting data packet time, thereby allowing to monitor network traffic.

9. As to claims 11, 12 and 15, they are rejected for the same reasons set forth in claims 1, 2, 5, 6, 7 and 10 above. In addition, James discloses recoding medium readable (16, 18, 24, figs. 1, 3-5; col. 6, lines 20-35).

10. Claims 3, 4, 8, 9, 13 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

### ***Conclusion***

Art Unit: 2154

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Sambamurthy et al, patent 6,393,489 B1, Kamano et al, patent 6,606,695 B2, Khare et al, patent 6,487,643 B1, Chang et al, patent 5,835,962, Duncan et al, patent 6,647,453 B1, Kaczynski, patent 6,205,119 B1 disclose method and system for avoiding starvation in multi-node architecture.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jungwon Chang whose telephone number is (703)305-9669. The examiner can normally be reached on 9:30-6:00 (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703)308-9052. The fax phone number for the organization where this application or proceeding is assigned is (703)746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-9669.

Jungwon Chang  
November 17, 2003

  
**MENG-AL T. AN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**